

**Before the Environment Court  
At Wellington  
I Mua I te Kōti Taiao  
Te Whanganui-a-Tara Rohe**

**ENV-2019-346-103**

**Under** Clause 14 of Schedule 1, Section 310, and Section 293 of  
the Resource Management Act 1991

**In the matter of** appeals on the Proposed Natural Resources Plan

**And**

**In the matter of** an application for a declaration and consequential orders

**Between** **Various**

**Appellants**

**ENV-2019-000103, 105-133**

**And** **Wellington Regional Council**

**Respondent**

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**Application for directions for service for the application by the Wellington  
Regional Council for a declaration under section 310 and an order under  
section 293 in relation to the definition of river 'mouth'**

**Date:** 17 September 2021

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**To:** The Registrar  
Environment Court  
WELLINGTON

**MAY IT PLEASE THE COURT**

1 Wellington Regional Council (**Council**) intends to apply for a declaration in relation to the location of river mouths in the Wellington Region, and a consequential application for orders under section 293 of the Resource Management Act 1991 (**RMA**).

2 The declaration sought is to remedy an error in the Proposed Natural Resources Plan (**PNRP**), in that it does not identify river mouths (except for those rivers on Maps 42 to 48, which relate to main rivers). Many smaller river mouths and stream boundaries have not been mapped and accordingly, the landward extent of the coastal marine area is not delineated. The declaration sought reflects the approach taken in the operative Regional Coastal Plan.

3 The declaration sought is that:

When determining the location of a river mouth in the Wellington Region, not shown on Maps 42 to 48, the mouth is deemed to be a straight line representing the continuation of the line of Mean High-Water Springs on each side of the river at the river outlet.

4 Based on the definition, the location of a river 'mouth' can be as agreed between the Minister of Conservation, the Council, and the appropriate territorial authority *prior* to notification of the PNRP, or via declaration by the Environment Court under section 310 before the PNRP becomes operative. As the PNRP has been notified, and advanced to the point that the majority of appeals on the PNRP have been resolved, with the error only subsequently being discovered, the first option is no longer available. Hence this application.

5 In order to give effect to the declaration, the Council also applies for orders under section 293 of the RMA to insert the following text into the PNRP:

Maps 42 to 48 show where the Coastal Marine Area and river mouth boundaries are located. For the remaining rivers in the Wellington Region not shown on Maps 42 to 48, the mouth is deemed to be a straight line representing the continuation of the line of Mean High Water Springs on each side of the river at the river outlet.

The Coastal Marine Area means the foreshore, seabed, and coastal water, and the air space above the water—

(a) of which the seaward boundary is the outer limits of the territorial sea:

(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—

(i) 1 kilometre upstream from the mouth of the river; or

(ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.

6 The Council is seeking directions from the Court in relation to service of the application under section 312 of the RMA and service of the section 293 application.

7 Section 312(1) of the RMA requires the application is served on every person directly affected by the application within 5 days of the declaration application being made.

8 The Council proposes to notify the following people directly:

8.1 The Minister of Conservation

8.2 All Territorial Authorities in the Wellington Region, being Hutt City Council, Porirua City Council, Upper Hutt City Council, Wellington City Council, Carterton District Council, Kapiti Coast District Council, Masterton District Council, South Wairarapa District Council, and part of Tararua District Council.

8.3 All appellants and section 274 parties on the PNRP.

9 It is submitted that this group will capture the authorities who may be impacted by the change of geographical jurisdiction, and this provides

notification to those parties who are involved in the appeal proceedings which provide a basis for this application.

10 Council seeks directions that the above notice is sufficient to meet the requirements of section 312 and section 293.

11 This position is supported by:

11.1 The affidavit of Dr Dawe, on behalf of the Council (unsworn at this stage).

11.2 Memorandum of Counsel on the application for directions.

12 In addition, draft copies of the following are provided to the Court for further information on the proposed applications:

12.1 Draft application for declaration under section 310 and an order under section 293 in relation to the definition of river 'mouth'

12.2 Draft notice of application for declaration under section 310 and an order under section 293 in relation to the definition of river 'mouth'

12.3 Draft memorandum of Counsel supporting application for declaration and order in relation to the definition of river 'mouth'.

**Date:** 17 September 2021



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Kerry M Anderson/Kate H Rogers  
Counsel for Wellington Regional  
Council

This document is filed by Kerry Murray Anderson of DLA Piper New Zealand, solicitor for Wellington Regional Council.

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Documents for service on Wellington Regional Council may be:

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- posted to the solicitor at PO Box 2791, Wellington 6140, or
- transmitted to the solicitor by fax on +64 4 472 7429.

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